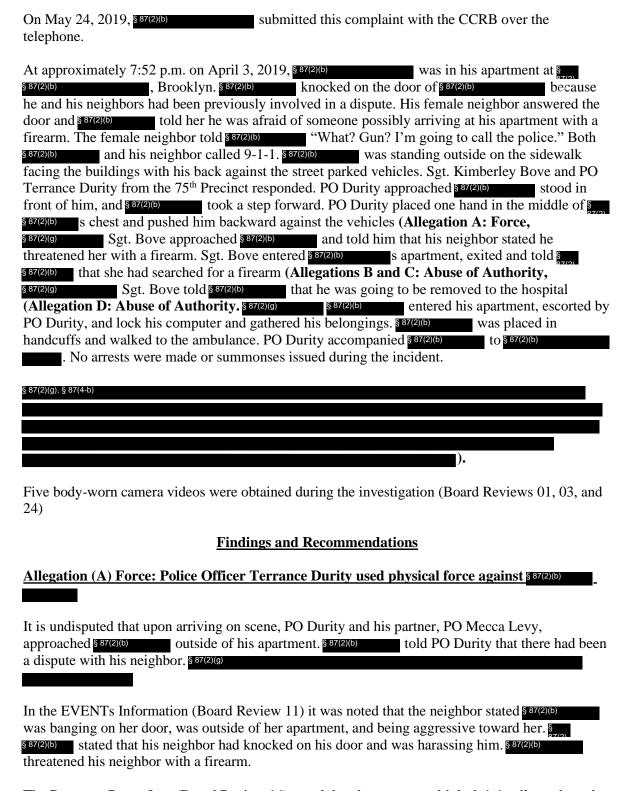
CCRB INVESTIGATIVE RECOMMENDATION

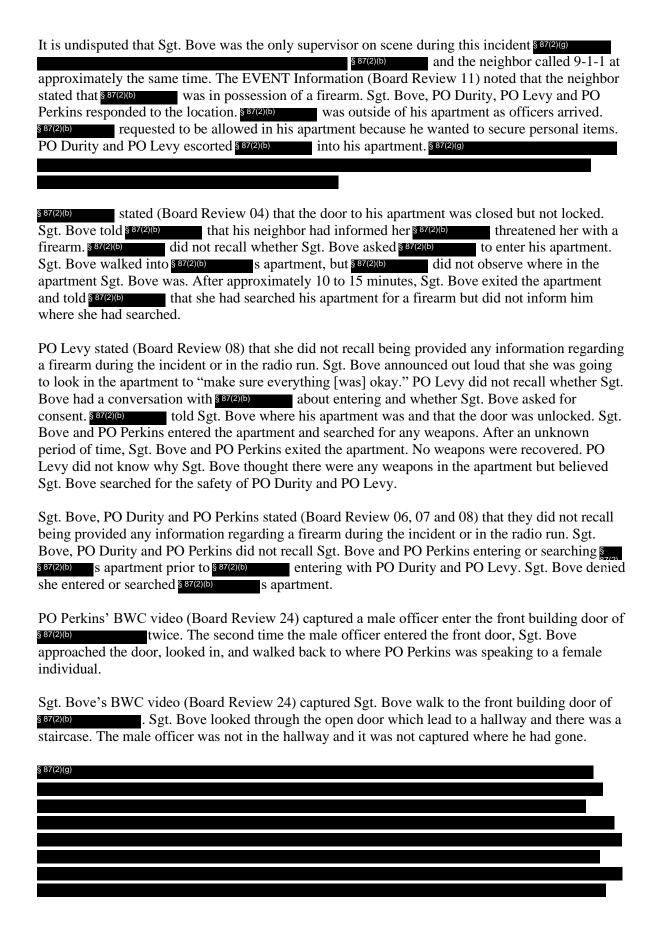
Investigator:		Team:	CCRB Case #:	V	Force		Discourt.	U.S.
Valentina Concha-Toro		Squad #15	201904510	V	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:	L	P	Precinct:	18	Mo. SOL	EO SOL
Wednesday, 04/03/2019 7:45 PM		§ 87(2)(b)			75	10	0/3/2020	5/20/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CC	RB
Fri, 05/24/2019 9:39 AM		CCRB	Phone		Fri, 05/24/2	2019	9:39 AM	
Complainant/Victim	Туре	Home Addre	ess					_
Subject Officer(s)	Shield	TaxID	Command					
1. POM Terrance Durity	16005	960486	075 PCT					
2. POF Mecca Levy	06793	964612	075 PCT					
3. SGT Kimberley Bove	01998	931555	075 PCT					
4. POF Kristen Perkins	07214	951044	075 PCT					
Officer(s)	Allegation	on			Inve	stiga	tor Recor	nmendation
A.POM Terrance Durity	Force: Po	olice Officer Terrance D	urity used physical f	force	e			
B.SGT Kimberley Bove	_	ergeant Kimberley Bove 1st Floor, F						
C.SGT Kimberley Bove	Abuse: S § 87(2)(b)	ergeant Kimberley Bove 1st Floor, F						
D.SGT Kimberley Bove	Abuse: S § 87(2)(b)	ergeant Kimberley Bove to the hospi						
§ 87(2)(g), § 87(4-b)								

Case Summary



The Resource Recap Log (Board Review 14) noted that there were multiple 9-1-1 calls made to the incident location. One call was marked as a harassment in progress and the other was marked as a dispute with a firearm inside.

stated in his CCRB statement (Board Review 04) that as PO Durity, PO Levy and Sgt. Bove's partner approached \$87(2)(b) he leaned his back against the vehicles. \$87(2)(b) explained in a follow up telephone interview (Board Review 05) that PO Durity stood directly in front of \$87(2)(b) approximately three feet away. PO Levy and Sgt. Bove's partner stood on either side of PO Durity. \$87(2)(b) took a step toward PO Durity and was approximately one to two feet away from him. PO Durity placed one hand in the middle of \$87(2)(b) s chest and gave one push so that \$87(2)(b) s back fell against the vehicle. \$87(2)(b) described the push as a four to five on a scale of one to ten.
PO Durity in his CCRB testimony (Board Review 06) stated he did not recall the job received over the radio had any detail regarding a firearm. PO Durity spoke to \$\frac{87(2)(0)}{27(2)}\$ outside and \$\frac{87(2)(0)}{27(2)}\$ was not doing anything with his body. \$\frac{87(2)(0)}{27(2)}\$ told PO Durity that he had been involved in a dispute with his neighbors. PO Durity did not recall \$\frac{87(2)(0)}{27(2)}\$ or anyone else on scene inform him of an incident with a firearm. PO Durity was not physically threatened by \$\frac{87(2)(0)}{27(2)}\$ PO Durity did not recall \$\frac{87(2)(0)}{27(2)}\$ s chest and pushing him backward toward the vehicles. PO Durity did not recall that any officer on scene pushed \$\frac{87(2)(0)}{27(2)}\$ against a vehicle. PO Durity denied using any physical force against \$\frac{87(2)(0)}{27(2)}\$ other than the minimum needed to handcuff him prior to placing him in the ambulance.
Sgt. Bove, PO Levy and Sgt. Bove's partner, PO Kristen Perkins, stated (Board Reviews 07, 08, and 09) that they did not recall \$87(2)(6) taking a step toward PO Durity. Sgt. Bove, PO Levy and PO Perkins, did not recall PO Durity or any other officer on scene, placing a hand on \$87(2)(6) to scheet and pushing him.
None of the BWC videos obtained by the investigation captured this moment of the incident.
§ 87(2)(g)
According to NYPD Patrol Guide, Section 221-01 (Board Review 10), an officer may use force when reasonable to ensure the safety of a member of service or a third person.
§ 87(2)(g)
§ 87(2)(g)
Allegation (B) Abuse of Authority: Sergeant Kimberley Bove entered 887(2)(b) Brooklyn. Allegation (C) Abuse of Authority: Sergeant Kimberley Bove searched 887(2)(b)
Brooklyn.

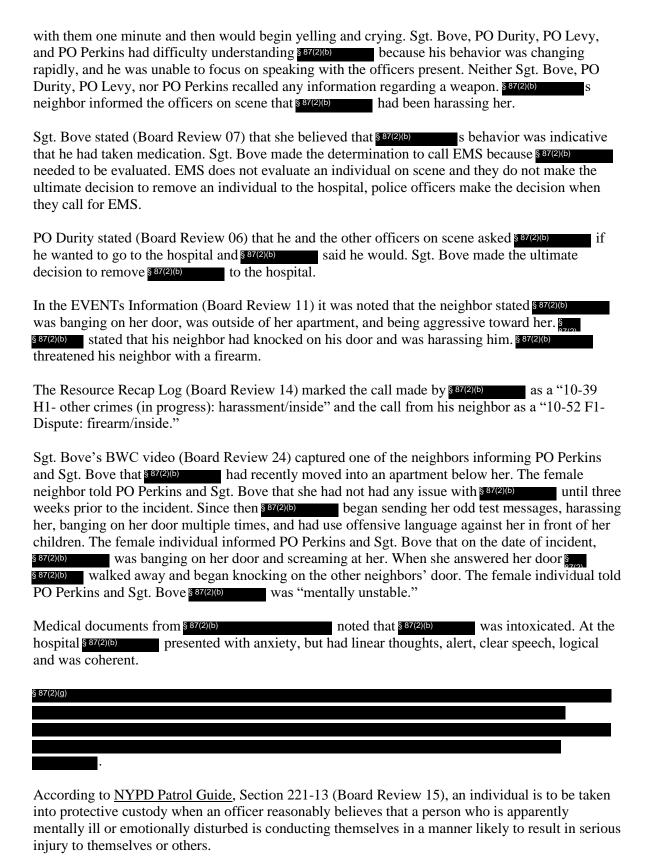


§ 87(2)(g)		

According to People v. Ponto, 103 A.D.2d 573 (Board Review 12), a third party's allegation of a threat with a firearm is not sufficient for an officer to enter the accused party's home. In this case, the accused was standing outside of the home upon the arrival of officers and under the officers' control. The court held that there was no danger regarding the destruction of evidence in the apartment at the time. No consent from the individual was obtained and neither was a warrant. There were no other exigencies compelling an instantaneous officer response, and thus a warrantless entry and seizure were improper.

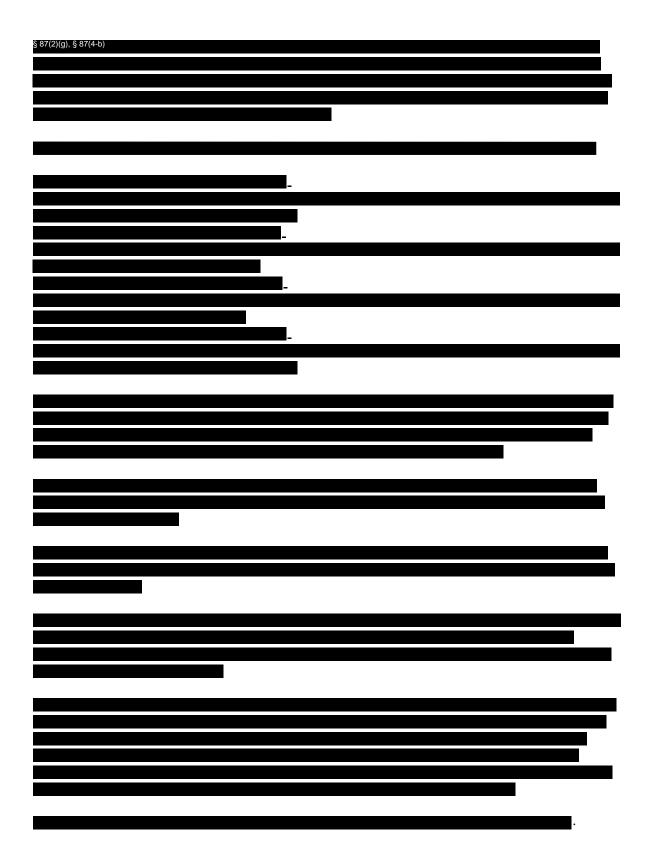
According to People v. McBride, 14 N.Y.3d 440 (Board Review 13), there are six factors to determine exigency: "(1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause ... to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry."

§ 87(2)(g)
§ 87(2)(g)
Allegation (D) Abuse of Authority: Sergeant Kimberley Bove forcibly removed 887(2)(b)
to the hospital.
It is undisputed that EMS was called to the incident location for an EDP and \$87(2)(b) was
removed to the hospital. § 87(2)(9)
stated (Board Review 04) that he had been crying during the incident. After Sgt. Bove
entered \$ \$7(2)(b) s apartment and told him that she had searched it, she told \$ \$7(2)(b) that
he was not well because he was crying, and he was going to be taken to the hospital. §87(2)(6) told Sgt. Bove that he did not want to go to the hospital, and she told him that he did not have a
choice. Sgt. Bove did not use her radio.
Sgt. Bove, PO Levy, and PO Perkins stated (Board Reviews 07, 08 and 09) that they smelled
alcohol emanating from \$87(2)(b) PO Durity stated (Board Review 06) that there was an odor of marijuana emanating from \$87(2)(b) When standing outside and speaking to Sgt. Bove, PO
Durity, PO Levy, and PO Perkins, \$87(2)(b) s behavior was erratic. \$87(2)(b) was speaking



CCRB Case # 201904510

§ 87(2)(g)	
§ 87(2)(g)	
§ 87(2)(g), § 87(4-b)	
-	



Civilian and Officer CCRB Histories

• This is 21).	the first CCRB complaint	to which § 87(2)(b)	has been a	party (Board Rev	iew
 PO Du 	rity has been a member-of aint to which he has been a		s and this is t	he first CCRB	
	ove has been a member-of asses, none of which were		nd has had fo	our CCRB allegat	ions in
	vy has been a member-of- ch she had been a subject.	service for two years a	and this is the	e first CCRB com	plaint
• PO Per	rkins has been a member-caint to which she had been	~	ars and this is	s the first CCRB	
	Mediation	n, Civil and Crimina	<u> Histories</u>		
• § 87(2)(b)	declined to mediate	e this complaint.			
• [§ 87(2)(b)]	[§§ 86(1)(3)&(4)] [§ 87(2)(c)]				
on the	bruary 13, 2020, an email same day an email was red filed in regards to this com	ceived advising there i	is no record of		
Squad No. 15					
Investigator:	Valentina Concha-Toro			April 2, 2020	
	Signature	Print Title & Nan	ne	Date	
Squad Leader:	Simon Wang	IM Simon Wang		April 3, 2020	
	Signature	Print Title & Nam	ne	Date	
Reviewer:					
	Signature	Print Title & Nam	ıe	Date	